

1 Claim 89 and canceled Claim 116. Claims 102 and 117 have been amended to recite dependency
2 upon new Claims 162 and 163, instead of canceled Claims 101 and 116. In view of applicants'
3 amendment and the remarks set forth below, applicants respectfully request that the claim rejections
4 be reconsidered.

5 The Rejection Under 35 U.S.C. § 112 Should be Withdrawn

6 In the Office Action of February 6, 1995, Claims 103-109 and Claims 111-113 were rejected
7 under the second paragraph of 35 U.S.C. § 112. Specific reasons for deeming the claims indefinite
8 were pointed out.

9 Claim 105 has been canceled, thereby overcoming the § 112 rejection relative to that
10 particular claim. Claims 103, 104, 106-109, and 111-113 have been amended in a manner that
11 imparts further particularity to applicants' claims, and, therefore, is believed to obviate the rejections.
12 In particular, Claims 103, 106 and 108 have been amended to positively set forth the subject matter of
13 those claims as method steps that further limit the process defined by claims upon which the amended
14 claims depend. Claim 111 has been amended to eliminate the phrase: "contribution of nerve," which
15 the Examiner considered indefinite, substituting therefor --conspicuity of nerve--. The term
16 "conspicuity" is used throughout applicants' specification in reference to enhancement of neural
17 images relative to imaged surrounding non-neural regions. Applicants use the term in that same sense
18 in amended Claim 111, but note that Claim 111 uses the term to define a characteristic of the output
19 obtained at step (c) of the process defined by Claim 89. That is, as amended, Claim 111 uses
20 "conspicuity" to describe a characteristic of signals that represent an imaged nerve relative to signals
21 that represent non-neural imaged regions. When those signals are displayed, the "conspicuity" is
22 visually present.

23 Although no specific reasons were stated for rejecting Claims 104, 107 and 109, applicants
24 have amended those claims for additional clarity -- primarily in the sense of the setting forth of
25 positive method steps. Further, Claim 104 has been amended to conform the claim language with the

1 language of Claim 103. Claims 112 and 113 also have been amended to positively set forth the
2 claimed subject matter as a method step that further limits the applicants' method. With respect to
3 amended Claim 113, it should be noted that the newly adopted claim language that relates to
4 "interleaved pixel-by-pixel" (or, equivalently, voxel-by-voxel) processing is supported by disclosure
5 at page 36, lines 622, of the application.

6 Applicants believe that Claims 103, 104, 106-109 and Claims 111-113 now are in full
7 compliance with 35 U.S.C. § 112. Accordingly, applicants respectfully request withdrawal of
8 the § 112 rejection.

9 The Rejections Under 35 U.S.C. §§ 102 and 103 Should be Withdrawn

10 Claims 89, 91, 103, 104, 108 and 119 stand rejected under 35 U.S.C. § 102(b) as being
11 anticipated by Hajnal et al. The 35 U.S.C. § 103 rejection also is based upon Hajnal et al., being
12 premised on Hajnal et al. in combination with Suzuki et al. or Hajnal et al. and Suzuki et al. in
13 combination with Bydder et al., or Dixon or Gordon (article by Gordan Sze) or Sepponen.

14 With respect to the rejection under 35 U.S.C. § 102, the Office Action states that:

15 Hajnal et al. teaches everything including MR imaging of structure within the nervous
16 system that exhibits diffusion anisotropy in order to highlight desired structures and
17 suppress other structures within the displayed image. Hajnal et al. accomplishes this
18 by subjecting the subject to polarizing and excitation fields, detects a response and
19 generates a corresponding output. The excitation fields include diffusion weighted
20 gradients and the analysis includes outputting information representative of fascicles
21 found in peripheral nerves.

22 In considering the patentability of applicants' claims over the teaching of Hajnal et al., it is
23 important to note that applicants' invention is directed to neural imaging in body regions that include
24 bone, muscle, lymphatics, tendons, ligaments, intermuscular septa, as well as collections of fatty
25 tissues, air and fluid spaces, veins, arteries, joints, skin, mucus membranes, and other tissues. That is,
applicants recognize that prior art MRI techniques allow the observation of neural tissue that is within
the arachnoid space. That is exactly why rejected Claim 89 was drafted to limit the invention to

1 nerves that are "a member of the group consisting of peripheral nerves, cranial nerves numbers three
2 through twelve, and autonomic nerves." Stated differently, but in a congruent manner, Claim 89 was
3 drafted to intentionally exclude interpretation that would extend claim coverage to prior art methods
4 and apparatus that: (1) are capable of imaging cranial nerves I (smell) and II (vision), which are
5 actually an extension of the central nervous system with arachnoid, cerebrospinal fluid and dura
6 mater; but, (2) are not capable of imaging the recited peripheral nerves, cranial nerves three through
7 twelve, or autonomic nerves that pass outside the arachnoid space (i.e., into the peripheral nervous
8 system). See also, page 6, line 33-page 8, line 4 of the application "Background of the Invention,"
9 where applicants clearly discuss the use of MRI to map nonperipheral, white matter nerve tracks in
10 the brain. In this portion of the application, the applicants note that the white matter tracks that
11 extend through gray matter tissue in the brain exhibit relatively high anisotropic diffusion, thus
12 allowing the white matter tracks to easily be identified in an MRI image.

13 The Hajnal et al. reference relates to the type of prior art apparatus and methods that were
14 never within the intent of applicants' claims. Specifically, the Hajnal et al. disclosure is directed to
15 imaging of tissue that is located in the central nervous system (i.e., the brain and other body regions
16 that are characterized by the presence of dura mater, arachnoid and/or cerebrospinal fluid). Nowhere
17 do Hajnal et al. discuss or suggest an arrangement that achieves high-resolution imaging of the type
18 of neural tissue encompassed by applicants' claims when the nerves of that neural tissue pass through
19 non-neural tissue such as muscle and the other types of tissue that are specifically noted in applicants'
20 specification.

21 In responding to the initial Office Action, applicants noted that the method disclosed by Hajnal
22 et al. uses diffusion-weighted gradients that can distinguish neural tissue in the brain at a conspicuity
23 that is at least 1.1 times that of the non-neural tissue¹. It was pointed out in applicants' earlier
24
25

¹Page 11, lines 10-12, of applicants' response dated November 14, 1994.

1 communication that the disclosure at page 14, Column 1, last paragraph of Hajnal et al.², makes
2 reference to a coronal section in which the trigeminal nerve can be seen (FIGURE 5 of Hajnal et al.).
3 As both the applicants and the Examiner recognize, the trigeminal nerve is fairly distinct in FIGURE 5
4 of Hajnal et al., apparently having a conspicuity of at least 1.1 relative to the surrounding region.
5 However, the region surrounding the trigeminal nerve in FIGURE 5 of Hajnal et al. is cerebrospinal
6 fluid, which is black in the depicted image to thereby visually set off what is the proximal portion of
7 the trigeminal nerve. This being the case, it cannot be concluded that Hajnal et al. disclose MRI
8 techniques or arrangements that accomplish high-resolution imaging of neural tissue that is located
9 outside the brain or is not in the presence of cerebrospinal fluid

10 Although the Office Action suggests otherwise, FIGURE 20 of Hajnal et al. does not disclose
11 or suggest MRI-based imaging of nerves that achieves a conspicuity greater than 1.1 for nerves that
12 are outside the arachnoid space. In particular, while the sciatic nerve can be vaguely identified in
13 FIGURE 20 of Hajnal et al. (when pointed out by an arrow), it does not stand out from the
14 surrounding non-neural tissue with a conspicuity of 1.1 or greater. Instead, in FIGURE 20, fat and
15 bone tissue have the highest conspicuity--showing as bright white regions. Surrounding the sciatic
16 nerve on the right in FIGURE 20 is muscle tissue that exhibits little contrast relative to the sciatic
17 nerve. In fact, the sciatic nerve can barely be distinguished from that surrounding muscle tissue.
18 Thus, FIGURE 20 does not anticipate or suggest an MRI method that achieves a conspicuity for
19 nerve tissue that is at least 1.1 times that of non-neural tissue that surrounds the nerve. To the
20 contrary, FIGURE 20 shows that the Hajnal et al. teaching is less than what is required to sustain an
21 anticipation or obviousness rejection.

22 To further distinguish their invention from prior art arrangements that may be capable of
23 MRI-based imaging of nerve tissue within the central nervous system, applicants have amended
24

25

²Referenced at page 8 of the Office Action.

1 Claim 89 to clearly state that the claimed method relates to nerves that are not located in the presence
2 of dura mater or cerebrospinal fluid. In its amended form, Claim 89 sets apart applicant's invention
3 from the imaging of Hajnal et al. that resulted in the coronal section shown in FIGURE 5 of Hajnal
4 et al. Moreover, as noted above, the sciatic nerve image shown in FIGURE 20 of Hajnal et al. does
5 not anticipate (and, indeed, does not even suggest) a process in which a nerve is distinguished from
6 surrounding non-neural tissue by a conspicuity that is at least 1.1 times that of the non-neural tissue.

7 It should be noted that applicants' amendment to Claim 89 does not constitute new matter. As
8 indicated above, the Background of the Invention section of the subject patent application states that
9 the prior art includes techniques for "locating and viewing the brain, spinal cord, and spinal roots
10 within the spinal cord. . . ." Applicants' disclosure further states that the prior art techniques were not
11 successful relative to "peripheral, autonomic, and cranial nerves . . . [which] commonly travel through
12 and along bone, muscle, lymphatics, tendons, ligaments, inter-muscular septa, collection of fatty
13 tissues, air and fluid spaces, veins, arteries, joints, skin, mucus membranes and other tissues." Page 1,
14 line 20-page 2, line 4 of applicants' specification. It was the applicants who cited Hajnal et al. and
15 other prior art that relates to MRI-based imaging of the brain and central nervous system. The prior
16 art use by Hajnal et al. and others of MRI for mapping nerve tracks in the brain is discussed at page 6,
17 line 30 through page 7, line 31, of applicants' specification where it is again pointed out that the type
18 of peripheral nerve to which the invention is directed is commonly surrounded by tissue such as
19 muscle and fat that prevent prior art systems from clearly imaging the nerve.

20 In addition to the above, the Summary of the Invention describes applicants' invention as
21 being able "to make all other structures in the body including bone, fat, skin, muscle, blood and
22 connective tissues tend to disappear so that only the nerve tree remains to be seen." Even further, the
23 features of applicants' invention are fully described in the Detailed Description of applicants'
24 specification. For example, at page 14, lines 21-31, the excitation coil 62 of FIGURE 8 is exemplified
25 as "a solenoid or surface coil, configured and dimensioned to fit closely over the region to be imaged

1 (e.g., the patient's arm, leg, shoulder, chest, pelvis, head, neck or back)." (Emphasis added.)
2 See, for example, also page 16 at lines 7-9 wherein it is stated that applicants' methods "may be used
3 to produce neurographic images of substantially any region of the body including the brain, for
4 example, central nervous system (CNS) neurograms. Clearly, applicants' invention is directed to
5 MRI-based imaging that is not limited to the brain or central nervous system. Applicants' invention is
6 a significant advance over the prior art that allows neural imaging within the peripheral nervous
7 systems amid muscle, bone, and tissue that previously inhibited advancement of the art. Accordingly,
8 the amendatory language of Claim 89--which clarifies the nature and extent of the invention--is not
9 new matter, but simply distinguishes applicants' invention over the prior art.

10 For all the above reasons it is respectfully submitted that rejected Claim 89 and all rejected
11 pending claims that are dependent thereon (Claims 90-92, 95, 97, 98, 103, 104, 107-110, 112-116
12 and 117-119) are neither anticipated nor rendered obvious by Hajnal et al., whether considered singly
13 or in combination with one more of the other references of record. Likewise, Claims 139-149, which
14 stand rejected under 35 U.S.C. § 103 on the basis of Hajnal et al. and on more additional references,
15 are patentably distinct from the prior art.

16 The Suzuki et al. reference does not supplement Hajnal et al. in a manner that renders obvious
17 Claim 89, any claim dependent upon Claim 89 or Claims 139-149. Specifically, as the Examiner
18 recognizes, Suzuki et al. disclose an imaging system that includes a surface coil for imaging the brain's
19 surface anatomy. See, e.g., Column 4, lines 42-45. The Suzuki et al. system uses a longer-than-
20 normal echo time to suppress fat on the surface of the brain (Column 4, lines 45-49). However, the
21 teaching of Suzuki et al. that relates to inhibiting signals obtained from fat on the brain surface is
22 significantly different from applicants' use of fat suppression. In particular, Suzuki et al. teach that a
23 good map of a brain surface can be obtained by imaging only the water that is in the cerebrospinal
24 fluid. It is the goal of Suzuki et al. to collect a thick image slice, suppressing signals from brain tissue
25 that is below the desired image slice and from fat in the skin of the scalp above the desired slice so

1 that the surface cerebrospinal fluid that extends over the brain will dominant the image. That is,
2 Suzuki et al. teach the uses of fat suppression with respect to a system or technique for **minimizing**
3 signals from neural tissue. That does not correspond to the use of fat-suppression techniques relative
4 to applicants' invention where fat suppression is used to further **enhance** neural imaging. There
5 simply is no suggestion in the Suzuki et al. arrangement that relates to the use of fat suppression in
6 the arrangements defined by applicants' claimed apparatus and methods for the imaging of the types
7 of nerves that are defined by the claims. Likewise, Bydder et al. contain no such teaching or
8 suggestion, being limited to MRI-based imaging of brain tumors in 11 patients. Bydder et al., which
9 are cited for teaching patient immobilization only mentions holding of the patient's head with vacuum
10 packs and padding and, in addition, cardiac gating that ensured that image data was being gathered in
11 diastole.

12 Clearly, nothing within the combination of Hajnal et al., Suzuki et al., and Bydder et al.
13 renders obvious the method defined by Claim 90 wherein the intensity (conspicuity) of the imaged
14 nerve is at least five times that of surrounding non-neural tissue. Just as clearly, Claim 110, which
15 encompasses suppression of blood vessels in the data set generated by applicants' method is neither
16 disclosed nor suggested by the combination of Hajnal et al., Suzuki et al., and Bydder et al. The same
17 is to be said for dependent Claim 112, which further modifies the definition of applicants' invention by
18 calling for the suppression of both blood vessels and cerebrospinal fluid. Accordingly, applicants
19 believe that the rejection of Claims 90, 95, 97-97, 105, 107, 109, 110, 112-114 and 118 (which is
20 based on Hajnal et al. in view of Suzuki et al. and Bydder et al.) should be withdrawn.

21 Sze (Gordon) does not supplement Hajnal et al. and Suzuki et al. in a manner that renders
22 obvious applicants' Claim 115. First, as noted above, amended Claim 89 is patentable over the
23 references of record. Secondly, the disclosure of Sze (Gordon) relates to MRI-based imaging of the
24 spinal column and simply does not disclose or suggest using a contrast agent **in combination with**
25 the method steps defined by independent Claim 89.

1 Sepponen does not supplement Hajnal et al. and Suzuki et al. in a manner that would render
2 obvious Claims 141-143. First, as previously noted, independent Claim 139, upon which Claims 140-
3 143 depend, is allowable over the combination of Hajnal et al. and Suzuki et al. Thus,
4 Claims 141-143 are allowable. Secondly, the generalized teaching of Sepponen relative to the use of
5 markers on a frame to detect frame position and reduce patient movement considerations is not
6 sufficient to render obvious the MRI arrangement defined by Claims 141-143.

7 For all the stated reasons, applicants respectfully request withdrawal of all rejections based
8 upon 35 U.S.C. § 102 and 35 U.S.C. § 103.

9 Applicants' Treatment of Claims Subject to Objection

10 As initially noted, applicants have canceled Claims 101 and 116, substituting therefor new
11 Claims 162 and 163, respectively. New Claim 162 incorporates all limitations of original Claim 89
12 and canceled Claim 101. Since it was noted in the Office Action that Claim 101 would be allowed if
13 written in independent form including all the limitations of the base claim and any intervening claims,
14 new Claim 162 is in condition for allowance.

15 Likewise, Claim 116 was among the claims subject to objection, but deemed allowable if
16 amended to incorporate all limitations of claims higher in the order of dependency. New Claim 163
17 incorporates all limitations of canceled Claim 116 and independent Claim 89, upon which canceled
18 Claim 116 directly depended. Thus, new Claim 163 is believed to be in condition for allowance. The
19 several other claims that were subject to objection, but deemed allowable (i.e., Claims 93, 94, 96, 99,
20 100, and 117) have not been redrafted in independent form. Each of those claims is believed to be in
21 condition for allowance, since it is believed that one or more claims in each order of dependency is
22 allowable.

23 Submission of Drawing Corrections

24 Applicants note for the record that the Office Draftsperson has objected to the formal
25 drawings that were filed on March 8, 1993 (submitted with applicants' Preliminary Amendment). In

1 addition to drawing changes necessary to comply with margin and line definition, applicants must file
2 and obtain approval of a petition for allowing the use of photographs as drawings that depict various
3 images obtained both with prior art arrangements and with the arrangement of applicants' invention.

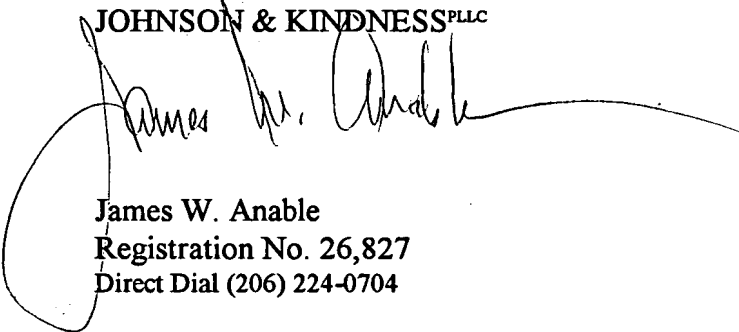
4 Since it is believed that prosecution in this case will soon end, applicants are preparing and
5 soon will submit the necessary petition. Complete formal drawings should be filed by the time at
6 which applicants submit payment of the patent issue fee.

7 Conclusion

8 For all the reasons stated above, applicants believe that all pending claims of this application
9 (Claims 89-100, 102-104, 106-115, and 117-163) are in condition for allowance. Accordingly,
10 applicants respectfully request the Examiner's reconsideration, withdrawal of the rejections, and early
11 passage to issuance.

12 Respectfully submitted,

13 CHRISTENSEN O'CONNOR
14 JOHNSON & KINDNESS^{PLLC}

15 
16
17 James W. Anable
18 Registration No. 26,827
19 Direct Dial (206) 224-0704

20 I hereby certify that this correspondence is being deposited with the U.S. Postal Service in a sealed
21 envelope as first class mail with postage thereon fully prepaid addressed to: Assistant Commissioner
22 for Patents, Washington, D.C. 20231, on 7/6/95.

23 Date: July 6, 1995

Katie / Louis

24 JWA/mk/bjb/ktk
25